

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 6, 2021

3:03 p.m.

MEMBERS PRESENT

Representative Liz Snyder, Co-Chair
Representative Tiffany Zulkosky, Co-Chair (via teleconference)
Representative Ivy Spohnholz (via teleconference)
Representative Zack Fields (via teleconference)
Representative Ken McCarty
Representative Mike Prax
Representative Christopher Kurka

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

EXECUTIVE ORDER 119 - DHSS REORGANIZATION

HEARD

HOUSE BILL NO. 76

"An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

EXECUTIVE ORDER 119
DHSS REORGANIZATION

01/20/21	(S)	RECEIVED IN THE SENATE
01/25/21	(S)	INTRODUCED - REFERRALS

01/25/21	(S)	HSS, FIN
02/18/21	(H)	RECEIVED IN THE HOUSE
02/19/21	(H)	INTRODUCED - REFERRALS
02/19/21	(H)	HSS, FIN
03/02/21	(H)	HSS
03/02/21	(H)	Heard & Held
03/06/21	(H)	HSS AT 3:00 PM DAVIS 106

BILL: HB 76

SHORT TITLE: EXTENDING COVID 19 DISASTER EMERGENCY
 SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	HSS, FIN
02/19/21	(H)	HSS REFERRAL REMOVED
02/19/21	(H)	BILL REPRINTED
02/26/21	(H)	FIN AT 1:30 PM ADAMS 519
03/01/21	(H)	HSS REFERRAL ADDED BEFORE FIN
03/01/21	(H)	BILL REPRINTED
03/02/21	(H)	HSS AT 3:00 PM BY TELECONFERENCE
03/02/21	(H)	Heard & Held
03/04/21	(H)	HSS AT 3:00 PM DAVIS 106
03/04/21	(H)	Heard & Held
03/06/21	(H)	HSS AT 3:00 PM DAVIS 106

WITNESS REGISTER

MICHELE GIRAULT

Key Coalition of Alaska
 Anchorage, Alaska

POSITION STATEMENT: During the hearing of Executive Order (EO) 119, provided invited testimony regarding the coalition's questions about the reorganization proposed in the order.

RHONDA PROWELL-KITTER, Chief Financial Officer
 Plan Administrator
 Public Education Health Trust (PEHT)
 Anchorage, Alaska

POSITION STATEMENT: During the hearing of Executive Order (EO) 119, provided invited testimony about the reorganization proposed in the order.

ANDREW DUNMIRE, Legislative Counsel
 Legislative Legal Services
 Legislative Affairs Agency
 Juneau, Alaska

POSITION STATEMENT: During the hearing of Executive Order 119, answered questions relating to the legal memorandum, dated 3/5/21, that he prepared at the committee's request about the order.

ADAM CRUM, Commissioner
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of Executive Order (EO) 119, answered questions about the order on behalf of the administration.

JASON LESSARD
Anchorage, Alaska

POSITION STATEMENT: During the hearing of Executive Order (EO) 119, testified he is not necessarily opposed to the split proposed in the EO but is opposed to the manner in which it has played out.

KEVIN BERRY, PhD, Professor
Department of Economics" University of Alaska Anchorage (UAA)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 76, provided invited testimony via a PowerPoint presentation titled "Economic Impacts of COVID."

NILS ANDREASSEN, Executive Director
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 76, provided invited testimony in support of extending the state's emergency declaration.

KATI CAPOZZI, President & CEO
Alaska Chamber of Commerce
Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 76, provided invited testimony in support of HB 76.

MICHELLE DEWITT, Executive Director
Bethel Community Services Foundation (BCSF)
Bethel, Alaska

POSITION STATEMENT: During the hearing of HB 76, provided invited testimony in support of the section of the bill that pertains to charitable gaming online.

THOMAS QUIMBY, MD, Vice President

Alaska Chapter of the American College of Emergency Physicians
Palmer, Alaska

POSITION STATEMENT: During the hearing of HB 76, provided invited testimony in support for reinstating an emergency disaster declaration as it relates to the COVID-19 pandemic.

ACTION NARRATIVE

[3:03:35 PM](#)

CO-CHAIR LIZ SNYDER called the House Health and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives McCarty, Kurka, Zulkosky (via teleconference), Spohnholz (via teleconference), Fields (via teleconference), and Snyder were present at the call to order. Representative Prax arrived as the meeting was in progress.

Executive Order 119 - DHSS Reorganization

[3:05:54 PM](#)

CO-CHAIR SNYDER announced that the first order of business would be Executive Order (EO) 119 - DHSS Reorganization.

CO-CHAIR SNYDER opened invited testimony on EO 119.

[3:06:04 PM](#)

MICHELE GIRAULT, Key Coalition of Alaska, provided invited testimony on behalf of the board of the Key Coalition of Alaska, a statewide group of stakeholders focusing on elevating the voices of those experiencing intellectual and developmental disabilities, advocating for best practice policies, and funding allocations resulting in enhanced quality of life for some of the most vulnerable citizens of the state. She noted that the annual Key Campaign, where stakeholders meet with legislators to share their priorities, was held this past week. During those visits, she related, participants were asked opinions about EO 119, the proposed reorganization of the Department of Health and Social Services (DHSS). She said the coalition has not come out for or against the reorganization because it is still in dialogue with the administration regarding the impact on the coalition's stakeholder group. However, Ms. Girault continued, no one has any argument that the department is huge, with many moving parts and stakeholder groups to serve.

MS. GIRAULT stated that the coalition deeply desires to see the Developmental Disability (DD) Shared Vision come to life in administrative practice. The DD Shared Vision, she specified, was put into statute [Senate Bill 174 signed into law in 2018] so changes of leadership can't change the philosophy of support and the lens from which decisions should be made. She related that this Shared Vision states: "Alaskans share a vision of a flexible system in which each person directs their own supports, based on their strengths and abilities, toward a meaningful life in their home, their job and their community. Our vision includes supported families, professional staff and services available throughout the state now and into the future."

MS. GIRAULT shared with the committee the questions that the Key Coalition has already brought forward to the administration regarding the [proposed] reorganization and the coalition's desired outcomes around those questions. She stated:

Question Number 1. Help us understand how the restructure will better serve families and individuals and align with the Shared Vision? As a coalition our desired outcome is to see increased flexibility in service models, more self-directed supports, less regulatory burdens on individuals and families, and the waitlist of 800-plus people eradicated. We would like to see a better partnership between the department and those receiving disability support, and a focus on removing barriers to meaningful lives and community.

Question Number 2. Can you explain the split in the department and why the 24/7 institutional side is identified as community and family services and why DD community supports are identified under the health care regulatory side of the division? For coalition members, language matters. Once Alaska entered the Home and Community Based Waiver Program in the 1990s, with Medicaid the source of funding rather than state grants, the medical model has prevailed with a focus on deficits, not on strengths. With Medicaid expansion in our state the focus on health care costs and outcomes has created a perception among coalition members they are cost to be contained rather than a citizen to be supported. We would love to see a focus on people and cost saving measures we have brought forward that would enhance lives to be implemented.

Question Number 3. How will you prevent disability services from becoming strictly medically modeled focused rather than a social service model? Again, as I stated before, the nature of Medicaid funding creates a deficit-based model that a person needs to be habilitated or fixed. Our desired outcome is not to have a funding source focusing on compliance overshadow the needs of the person and family and help find innovative ways through a social model lens to support strength so people can be active participants in the community.

Question Number 4. We have brought forward cost saving suggestions that have not been moved forward. Will this restructure give us more opportunity to have dialogue and move these initiatives forward? We all spent last week bringing forward cost saving suggestions to legislators, all recommendations we have brought to both current and previous administrations. Again, our desire as a coalition of primary stakeholders receiving support, their families and supporters, provider agencies, and the direct support professionals walking alongside people, is to partner to assure the Shared Vision is the lens from which we are all making decisions.

MS. GIRAULT concluded by relating that for those experiencing disabilities the mantra has long been, "Nothing about me without me." She said the coalition welcomes the continued dialogue of how the proposed departmental reorganization will bring the DD Shared Vision to life.

[3:11:27 PM](#)

REPRESENTATIVE PRAX said he understands the Key Coalition's concern about any reorganization but asked whether the services that are provided to the coalition are set up in statute.

MS. GIRAULT replied that the DD Shared Vision was put into statute several years ago, which is really a philosophical north star by which to make decisions. She said the funding that funds DD services comes from Medicaid. In response to a follow-up question, she said she was not able to cite the statute number.

[3:12:43 PM](#)

REPRESENTATIVE SPOHNHOLZ thanked Ms. Girault for her testimony and the Key Coalition's work, particularly its recent work to advance the DD Shared Vision. She offered her belief that this work could result in improving person-centered living while eventually saving money over time if the administration were to adopt some of the proposals advanced by the coalition. She related that one of the concerns being heard from some folks is that they were not substantively consulted about EO 119 prior to its introduction. She inquired whether town hall meetings were held with members of the Key Coalition, members of the DHSS leadership, or anyone from the governor's office in advance of releasing the EO.

MS. GIRAULT answered that there was no advance dialogue but there is current dialogue. The Key Coalition has met with the administration a couple times and the Shared Vision Legislative Committee has a meeting next meeting next week. She offered her belief that Alaskans for Medicaid had a meeting last week.

[3:14:14 PM](#)

CO-CHAIR ZULKOSKY thanked Ms. Girault for her testimony. She noted the committee has heard from DHSS that the reduction in the waitlist in the Division of Public Assistance has positioned the agency well for such a significant reorganization. She requested Ms. Girault to speak to any sort of waitlist that the coalition faces regarding providing support services to Alaskans. She further requested Ms. Girault to speak to the potential impacts for coalition stakeholders were there to be waitlist issues forthcoming.

MS. GIRAULT replied there are a couple different avenues for potential waiting in terms of qualification for services. She explained that a person with a disability must qualify for, be determined, to have a developmental disability. Then, getting on Medicaid is another qualification and the Division of Public Assistance (DPA) is one of those hoops to jump through. To get waived services is another waitlist, she continued, so sometimes when talking about waitlist it can be confusing about what people are waiting for, what are they getting qualified for. For example, a person with Down's Syndrome gets a determination of having Down's Syndrome and needs support and qualifies for Medicaid and Social Security; then he or she still goes on a potential waitlist for actual community supports, which is the home and community-based waiver.

CO-CHAIR ZULKOSKY requested Ms. Girault to speak to the waitlist for Alaskans who are trying to get identified for services and who are on a waitlist for home and community-based care, and what the projected dates for being eligible for services has been and could potentially be under a reorganization.

MS. GIRAULT responded she doesn't know that she can speak to that unless there are cost saving measures because the waitlist is somewhat of a cost containment for the state. She said the Intellectual and Developmental Disabilities (IDD) Waiver is the one waiver that has a waitlist so a person can potentially qualify for services. To provide an example, she related that a Key Coalition member's daughter has Down's Syndrome and is living with her family. The daughter was put on that waitlist at the age of 2, is now 20, and is still on a waitlist for that full IDD waiver. Ms. Girault stated she can't speak to how a reorganization could impact that unless there was a considerable cost savings that then was reallocated toward that waitlist.

CO-CHAIR ZULKOSKY stated the department has suggested that it is looking at a reduction of roughly 129-139 positions in the [Division] of Public Assistance because there is no longer a significant waitlist, as there had been, for determining eligibility. She asked whether Ms. Girault knows how that might impact Alaskans waiting for services through the Key Coalition.

MS. GIRAULT took off her "Key Coalition hat" and spoke from her personal involvement as a guardian for two people who experience disabilities. She explained that when going through DPA, going through Social Security Income (SSI), many hoops must be jumped through and there is lots of back-and-forth communication. So, coalition members, or parents and guardians' members, have some fear about a reduction in access to good communication and good problem solving for people who must have that financial aspect of eligibility to move forward. It has been very challenging during COVID with Social Security and DPA, she added, so there is fear that workforce reduction would exacerbate those issues.

[3:18:41 PM](#)

RHONDA PROWELL-KITTER, Chief Financial Officer, Plan Administrator, Public Education Health Trust (PEHT), provided invited testimony on behalf of PEHT, a not-for-profit governmental trust organization that provides health insurance benefits for public education employees in Alaska such as school boards, teachers, and support staff. She stated that PEHT supports finding innovative methods to keep health care costs

low while providing local choice, local control, and low-cost health insurance options for its members. She said PEHT supports nearly 17,000 Alaska residents who are dedicated to the education of Alaskan children.

MS. PROWELL-KITTER stated that PEHT greatly appreciates the efforts of DHSS and the State of Alaska to find cost savings and opportunities to improve outcomes for Alaskans. The recognized need to support the overwhelmed and understaffed Office of Children's Services (OCS) is more important than ever in this pandemic. She encouraged DHSS to take a measured, thoughtful approach in considering this restructuring and consult the many stakeholders across Alaska. She related that foster families and caseworkers have expressed concern about changes without input, changes during the pandemic, and no clear understanding of how their monumental needs will be met.

MS. PROWELL-KITTER noted PEHT is a small organization accustomed to finding cost savings through innovative practices and operating with minimal administrative cost. She said PEHT is concerned that splitting the department and separating staff who are accustomed to working closely together could increase administrative work and create communication challenges between those divisions. Health and community services are often highly interrelated, she pointed out, as recognized by the growing emphasis on wraparound services for addressing issues from substance abuse to disability support and even end-of-life care.

MS. PROWELL-KITTER said DHSS performs many vital services and houses divisions that rely on close communications, such as the offices of Children's Services and Public Assistance, which would be separated by this division. The concern is that this division would complicate and delay access to needed services. She stressed that, to be meaningful, a change of this magnitude requires utilizing a thoughtful and comprehensive approach. She urged that there be engagement with all impacted stakeholders to ensure their needs are met, their mission supported, and their voices heard throughout the process.

[3:21:54 PM](#)

REPRESENTATIVE MCCARTY asked whether PEHT is taking a stance on EO 19 or is waiting to see the outcome.

MS. PROWELL-KITTER replied that PEHT's position is that the stakeholders, many of whom are PEHT members, are overtaxed and overburdened with the current COVID situation, the ZOOM

classroom schedules, and the class students that they have who are in the foster care system. The guardians ad litem and the caseworkers are all shrugging their shoulders with their hands in the air saying, "We don't know." So, she said, PEHT's concern is that they have not been engaged thoughtfully in this process at this time.

3:22:45 PM

REPRESENTATIVE PRAX requested clarification about the name of Ms. Prowell-Kitter's organization as he thought PEHT had to do with the educational professionals' health benefit system. He asked whether PEHT is doing something with DHSS.

MS. PROWELL-KITTER responded that PEHT's members who are being impacted by this are expressing that they don't know what steps will be taken. These members do interact directly with DHSS, she explained, and they have interactions with the children who are in the foster care system. It's already complex at this time, she related, and they are worried that their concerns have not been heard thoughtfully in this area.

REPRESENTATIVE PRAX offered his understanding that it's PEHT's members as individuals who are being affected, not necessarily members of the health trust as members of the trust.

MS. PROWELL-KITTER answered correct. She explained that the trust's members are often foster care families themselves. They are reaching out to the trust in need for employee assistance and member assistance programs to assist them through the mental health challenges that exist inside the foster care system. They are highly concerned about additional disruptions that would be occurring, she stated, and would like an opportunity to have a voice.

3:24:43 PM

REPRESENTATIVE MCCARTY noted Ms. Prowell-Kitter spoke in general about the concerns. He asked whether she has any specific pieces that she would like to share with the committee about what she is hearing from foster parents or services.

MS. PROWELL-KITTER replied that the number one issue she is hearing from trust members is about the [proposed] separating of the offices of Children's Services and Public Assistance and how that coordination would impact their homes as foster care families, as well as any new foster children coming into the

system and possibly into their home. The second issue is the [proposed] separating of two different finance departments between the two divisions and whether, if one division is lacking funds, they will be unable to access funds that are designed to assist all children in the foster care system.

REPRESENTATIVE MCCARTY requested a specific example of the concern that one group of foster children will be able to get services while another group will not.

MS. PROWELL-KITTER responded the concern is access to the public assistance if there is an enrollment in Medicaid and that when getting children into the foster care system their birth parents have access to the services needed for substance abuse so the family can be reunified. She said the concern is having the two different departments as opposed to them working side-by-side.

REPRESENTATIVE MCCARTY, regarding family reunification, inquired whether he is correct in understanding that Ms. Prowell-Kitter is saying that if there were a split the kids would be in one area of services that the state is overseeing but the parents would be in a different realm, and that that would cause a conflict because there could be a potential lack of continuity of care and things will get challenged.

MS. PROWELL-KITTER answered, "The concern being that an individual needing to work closely with the Office of Children's Services and with the Office of Public Assistance, if they're not funneling under the same department any longer that there would be ... potentially delays in communication."

REPRESENTATIVE MCCARTY stated he knows OCS and is familiar with the process there. He said there seems to be several entities that are involved in the services to help Alaska's children, one of which is the courts, which is a whole different entity from OCS and yet they do work together in realms. He stated he isn't diminishing PEHT's concern but is trying to understand how a different department division, three different types, will affect Alaska's children.

MS. PROWELL-KITTER replied that the information coming to her, the individuals who are seeking this access to PEHT's members assistance program, is the uncertainty of how this division will impact. She said their fear is that it is going to add additional red tape in an already complicated system. It is certainly known, she continued, that the courts are overwhelmed with the amount of OCS cases that are coming before the judges

and lengthy times in the scheduling of appointments is being seen. The concern is the lack of understanding, she added, "Is this going to improve that operation or the fear that the separation is going to complicate an already complex area?"

REPRESENTATIVE MCCARTY stated that that is a good question.

3:29:12 PM

CO-CHAIR SNYDER announced that the committee has received a memorandum from Legislative Legal and Research Services regarding the legality of EO 119 [dated 3/5/21, from Andrew Dunmire]. She read from page 1, fourth sentence in paragraph 2, of the memorandum which states, "some sections of the executive order impermissibly make substantive changes to existing law," and stated that this impedes on the legislature's authority. She noted Mr. Dunmire is online and invited committee members to ask questions of him.

3:29:54 PM

REPRESENTATIVE SPOHNHOLZ observed that Mr. Dunmire's memorandum of findings and analysis of EO 119 is lengthy. She requested Mr. Dunmire to highlight the categories of concerns identified in the memo, particularly the ones around potential creation of law or changing of law that are done in EO 19 that the committee should be considering.

3:30:53 PM

ANDREW DUNMIRE, Legislative Counsel, Legal Services, Division of Legal and Research Services, Legislative Affairs Agency, replied that Legal Services believes a number of provisions in EO 19 create substantive law. He said Section 2 of the EO, for example, would change how and when nurses can pronounce deceased people as dead. Currently, nurses can do so at the Alaska Pioneers' Home and the Alaska Veterans' Home, and this law would prevent them from doing that, and the position of Legal Services is that that is substantive. He stated that Legal Services thinks several other parts of the executive order are substantive. He also noted that Legal Services has highlighted a couple other problems, things that might just be tracking errors. For example, he pointed out that Sections 142-145 give instructions to the revisor to replace DHSS with Department of Health in some instances and Department of Family and Community Services in others, and there are a couple duplicates. He said

these might be drafting errors or grammatical errors, but nonetheless they are in the executive order.

REPRESENTATIVE SPOHNHOLZ observed from the memo that EO 119 would add new members to boards; for example, there would be two commissioners where currently there is one. She requested Mr. Dunmire to describe how that is a policy change and what would be the concerns associated with that.

MR. DUNMIRE confirmed there are a few boards that would increase in membership from the executive order. For example, he said Sections 3-4 of the EO would [create new board positions] on the Controlled Substances Advisory Committee and the Criminal Justice Information Advisory Board and both these boards would go from an odd number [nine] to an even number [ten] of members, which has policy implications that the legislature can consider. Section 11 of the EO has another example of this in that a member is added to the Council on Domestic Violence and Sexual Assault by naming the commissioners of both new departments to the council, which would result in the council going from an odd number of members (nine) to an even number (ten).

REPRESENTATIVE SPOHNHOLZ opined that that is important because many of these boards have been crafted with an odd number and with very specific membership in order to have geographic and expertise balance, as well as balance between the administration and members of the community and the legislature and in some cases members of local government. She observed it isn't just the Criminal Justice Information Advisory Board, the Controlled Substances Advisory Committee, and the Council on Domestic Violence and Sexual Assault, but also the Alaska State Emergency Response Commission, and that is just a few of the changes Mr. Dunmire has identified in the memo. There are many very specific changes, she continued, and it looks like a lot of work needs to be done on this to ensure that all the policy options are considered. She pointed out that executive orders cannot be amended, which creates policy problems as well as concerns with being able to advance this order at all. This executive order has substantive problems, and the committee doesn't have a means to make a change to it. She said she has a lot of concerns.

[3:35:20 PM](#)

REPRESENTATIVE KURKA offered his understanding that generally the membership of boards and commissions is often appointed by the governor and then approved by the legislature. He said he recognizes that these new positions on the boards would give

more weight to the administration and asked whether Mr. Dunmire is suggesting that these new memberships would not be voted on or confirmed by the legislature.

MR. DUNMIRE responded that these are board positions that are defined by statute. For example, he said that for the Criminal Justice Information Advisory Board there is currently a provision in statute that declares the commissioner of the Department of Health and Social Services is on that board.

REPRESENTATIVE KURKA said it seems to him that the legislature would be voting to confirm or not confirm these new commissioners, so the legislature would still have a say or authority in that.

MR. DUNMIRE answered that Representative Kurka is correct. He said if the EO becomes effective then the two departments would both be principal departments of law and there is nothing in the order that changes the appointment or nomination process.

REPRESENTATIVE KURKA drew attention to page 1, paragraph 2, of the memo that references Article III, sec. 23 of the Alaska Constitution and the governor's authority to reorganize executive departments. He related that Article III, sec. 23, states "where these changes require the force of law they shall be set forth in executive orders." He said the legislature then has 60 days to potentially reject this. It seems clear in the constitution, he opined, that [the governor] has that authority to change the law in an executive order for the purpose of splitting up [DHSS] and then the legislature can decide if it doesn't want that. He asked where the line is with having those changes in the law to allow for the reorganization and where it is going beyond that to make substantive policy differences.

MR. DUNMIRE replied that that is a question with a lot of grey area. For example, he said he thinks the change to nursing law in Section 2 is clearly a substantive change because it changes the statute and changes the duties that nurses at the Pioneers' Home would have given to them by law. On the other end of the scales are provisions in EO 119 that take existing statutes and move them into a new title or a new chapter without making any changes whatsoever; he said he doesn't think there is any argument to be made that that could be considered a substantive change to the law because it's merely a reorganization of the way that the statutes are numbered. In between those two extremes, he continued, is a lot of middle ground that he tried to document in the memo.

3:40:54 PM

CO-CHAIR SNYDER requested Mr. Dunmire to explain how adding another member changes the balance of power in the boards and how that becomes problematic in the context of what is being called substantive changes.

MR. DUNMIRE responded that, respectfully, he thinks that might be a policy consideration for the legislature. He said he thinks it's up to the legislature as a body to determine how these boards are composed, for example, whether they have an odd number or even number of members. He explained he merely pointed out that change in the memo to bring that to the committee's attention, but he doesn't feel equipped to answer the question as to how it would change the dynamics.

CO-CHAIR SNYDER stated that the responsibility lies at the legislature.

CO-CHAIR SNYDER drew attention to page 2 of the memo regarding Section 15 of EO 119. She requested Mr. Dunmire to clarify and explain which services these changes would affect.

MR. DUNMIRE answered that Section 15 amends AS 25.27.125(b) and that references an account that is salvaged by 37.05.142, he believes. In this case, he explained, these are receipts that come in from the "Child Support Services agency." Currently the statute says that the legislature may use the money in the fund to make appropriations to the Department of Health and Social Services, but Section 15 of EO 119 would delete the reference of Department of Health and Social Services and leave the statutory citation that's in there. It's unclear what effect that might have on how the government functions, he advised, but a cleaner way to have done it might have been to leave the Department of Health and Social Services references and replace it to a reference that says Department of Family and Community Services and Department of Health to keep it the same as what it is now.

CO-CHAIR SNYDER stated she is hearing that this would create some significant uncertainty in how these appropriations would be directed.

MR. DUNMIRE replied he thinks there is a possibility that that could happen. But, he continued, the citations remain in that statute, and it just takes out the name of the department that

[the funds] must be appropriated to. So, he advised, it's difficult to predict what effect that might have.

CO-CHAIR SNYDER brought attention to page 2 of the memo regarding Section 30 of EO 119, which would make changes to the DHSS commissioner's current statutory authority to establish a schedule of fees for the services found in AS 44.29.020(a)(1), (8), and (14). She asked Mr. Dunmire to explain who currently has authority for (a)(1-7). She further noted that Section 30 also removes several other areas of authority and asked what would be affected.

MR. DUNMIRE responded that currently under AS 44.29.020(a)(1-7) it is the commissioner of the Department of Health and Social Services who has that authority. Regarding the other areas of authority that would be removed by Section 30 and what would be affected, he said "the statute sections that are referenced in this bill section are amended by bill Section 36." He explained that Section 36 gives the Department of Family and Community Services authority to regulate what is currently (a)(7), (a)(8), and (a)(2), and the others would go to the Department of Health.

[3:46:44 PM](#)

REPRESENTATIVE MCCARTY remarked that he has lots of questions about Section 30. He asked what the implications are of the commissioner being able to charge fees, establish fees, and not being able to establish fees, for services or whatever codes need to be fee driven. He further asked what the concern is there and what the big change is that will happen to take away that authority.

MR. DUNMIRE answered that currently this statute does not give the commissioner of the Department of Health and Social Services the authority to create fee schedules for AS 44.29.020(a)(2-6). He said that includes preventative medical services, public health nursing services, nutrition services, health education, and laboratories. But, he continued, Section 30 of EO 119 would give the commissioner of [the Department of] Health the authority to establish fees for those services.

REPRESENTATIVE MCCARTY offered his understanding that Mr. Dunmire is saying that currently the commissioner is not able to establish these fees for services that are had in the state. He inquired whether that implies that [the state] is not able to collect revenue for such things, and if this happens, this will then resolve that.

MR. DUNMIRE replied he will have to do more research and get back to the committee, but at this moment he can say that the current statute does not grant the commissioner that authority, but it would after EO 119.

[3:49:17 PM](#)

CO-CHAIR SNYDER stated the committee is hearing that Section 30 would make substantive changes in the commissioner's powers.

[3:49:41 PM](#)

CO-CHAIR ZULKOSKY said she is hoping to zero in on Mr. Dunmire's conclusion, understanding that there are some substantive examples that have been provided within the memo about risk of substantive law that would be established through the proposed executive order. She posed a scenario in which the legislature does not act, and Executive Order 119 moves forward in its current manner. She asked whether it is Mr. Dunmire's legal opinion that in this scenario the legislature could ultimately be ceding its appropriations or legislative authority to establish new laws in the state of Alaska.

MR. DUNMIRE replied he thinks there is a risk if Executive Order 119 goes into law that there would be a lawsuit. He said there is certainly the potential for somebody with an actual interest in the changed law or a public interest litigant to bring a case. One argument that would be made by a plaintiff in that situation in court, he posited, would be that the governor has usurped the legislature's power by enacting statutes via an executive order. Predicting how that would play out is not something he feels comfortable doing, he continued, but he can tell the legislature that he thinks there certainly is a substantial litigation risk if this executive order becomes law.

CO-CHAIR ZULKOSKY recalled that the committee has heard overwhelmingly in testimony about the disproportionality in the child welfare system, as well as about the challenges and impacts with Medicaid and guardians ad litem. She asked whether Mr. Dunmire has a sense of the implication to Alaskans utilizing services through the department if there were a lawsuit.

MR. DUNMIRE requested clarification as to whether Co-Chair Zulkosky is asking if a lawsuit would impact the services received by citizens of Alaska.

CO-CHAIR ZULKOSKY replied yes.

MR. DUNMIRE responded that he doesn't have an answer.

[3:53:07 PM](#)

REPRESENTATIVE FIELDS drew attention to Section 17 of EO 119, lines 18-19, and related that the executive order would remove state and federal receipt authority from the Department of Health regarding foster care youth and places this receipt authority on the Department of Family and Community Services. He said his understanding is that OCS would still have children in custody in the Division of Behavioral Health, specifically youth in therapeutic foster homes. He inquired whether that is going to present a problem for the Department of Health trying to receive federal dollars that pay for these foster youth if receipt authority is deleted. He further inquired whether the administration has articulated how to address that issue.

MR. DUNMIRE replied he isn't able to answer the question. He said the executive order would give both the new departments, the Department of Health and the Department of Family and Community Services, authority over the receipts, but he is unable to say anything beyond that.

[3:54:29 PM](#)

REPRESENTATIVE PRAX inquired whether it would be appropriate to have the [DHSS] commissioner address some of these questions.

CO-CHAIR SNYDER confirmed the commissioner is online if Representative Prax would like to pose a question.

REPRESENTATIVE PRAX requested Commissioner Crum to address the concerns that have been raised by Legal Services as far as the substantive changes. He noted he has not read through the legal opinion but that making these changes made sense to him when reading through the executive order.

[3:55:24 PM](#)

ADAM CRUM, Commissioner, Department of Health and Social Services (DHSS), requested clarification on the question being asked.

REPRESENTATIVE PRAX referenced the concerns expressed by Mr. Dunmire of Legal Services about changing board makeup and

authority to collect fees and authority for federal receipts. He asked what the administration's thoughts were at the time of drafting Executive Order 119.

3:55:57 PM

COMMISSIONER CRUM, regarding board makeup, responded that not all the board seats have voting rights to each of the members, particularly a commissioner that is directed to sit on them. He said that normally the commissioner's role is to represent the administration and provide information to the board members and the public. Regarding the ability to collect fees, Commissioner Crum stated:

Office of Children's Services would need the receipt authority to collect those items because items that are under their care or the custody of OCS. Division of Behavioral Health does not have children in custody, they are a program manager, and they help provide services and so they connect in resources that way. Whereas OCS, if that is the case, they would be the individuals there in charge of those children connecting them to youth because they've got Medicaid eligibility technicians on staff at OCS.

REPRESENTATIVE PRAX asked whether it is correct to think about this as: "It isn't so much that the commissioner was setting fees, somebody is setting fees at this point. But just one department is collecting them currently, whereas another department would be collecting them in the future."

COMMISSIONER CRUM replied yes. "These are authorities that exist right now," he stated, "things that are being collected and/or fees, and they're being pointed to the department that houses the division that performs those services and/or that work."

REPRESENTATIVE PRAX, regarding the concerns about services raised by various testifiers, surmised the department would be required to maintain the services if the services are provided by statutes. He further surmised it would just be a different way of providing [the services].

COMMISSIONER CRUM answered that absolutely the services DHSS provides as a department will be maintained. He continued:

There is no disruption of the services, the programs, or the payment structures that people receive, whether they be providers or beneficiaries. Those services will continue to be maintained. The current divisions that provide those services will continue to do so, they'll just be doing it under a different banner of a department, and that has been the primary work when we're reaching out to the stakeholder groups is letting them know and explaining that. Whereas we have been quite successful over the last week with various townhalls assuaging their concerns about the services and the work they do will be able to continue to go on.

[3:58:35 PM](#)

REPRESENTATIVE SPOHNHOLZ opined that changing the balance of boards, which are often very carefully crafted, is a substantive change in law given that each one of those boards has essentially been passed in individual laws and carefully crafted compromises over time. Sometimes commissioners are voting members, sometimes they're not, she noted. Adding another member and changing it from an odd to an even board composition with an additional administrative representative is a significant change and ordinarily would be an individual bill in and of itself.

REPRESENTATIVE SPOHNHOLZ addressed the Legal Services memo by Mr. Dunmire. She observed that beginning on page 3 regarding Section 62 of the EO, the memo describes that the authority to the new Department of Family and Community Services to adopt regulations is broader than what is currently in statute. She further observed that on page 5 regarding Section 130 of the EO, the memo describes the apparent removal of any reference to "crisis stabilization" in statute. She requested Mr. Dunmire to speak to these.

MR. DUNMIRE responded that Section 2 creates Chapter 6 in Title 47, which are the duties of the Department of Family and Community Services. The language that is put in this section comes from 47.05.010, he said, but differs. He related that the current language in the statute tasks DHSS with administering and regulating [adult] public assistance, the temporary cash assistance program, and a few other programs. There are explicit lists in the statute, he continued, that are replaced in the new statute with the term "applicable assistance programs." He said it appears to also give DFCS a broader

mandate to apply regulations by telling DFCS that it can do so as necessary for the conduct of its business. He further pointed out that there is a paragraph in AS 47.05.010, program 5, that currently declares that DHSS shall: "cooperate with the federal government in matters of mutual concern pertaining to adult public assistance, the Alaska temporary assistance program, and other forms of public assistance." But, he said, EO 119 would keep that within Health, while other public assistance programs are transferred to DFCS.

REPRESENTATIVE SPOHNHOLZ reiterated her observation regarding Section 130 and the removal of reference to "crisis stabilization center," which she thinks the legislature recently put into law. She asked whether it is created in another section of the EO.

MR. DUNMIRE answered that Section 130 is the repealer section of EO 119. He said this section repeals AS 47.32.900(5), which defines "crisis stabilization center." He stated he was unable to find any reason that that is repealed in this EO, and he suspects that it might be a drafting error.

REPRESENTATIVE SPOHNHOLZ remarked that it is a substantial drafting error.

[4:02:52 PM](#)

REPRESENTATIVE KURKA addressed Section 30 and the question of reassigning of the authority to set fee schedules. He recalled the commissioner stating that they would continue to reassign these fees going to their appropriate place. He asked who or what, such as the legislature, has the authority currently to set those fee schedules.

MR. DUNMIRE replied he doesn't know who schedules those fees but offered to get back to the committee with an answer.

[4:04:02 PM](#)

REPRESENTATIVE MCCARTY concurred with the question being asked about Section 130 especially since [legislators] have been looking at the Crisis Now program in the state. He said he doesn't understand why the removal of "crisis stabilization center" and whether it was or was not intentional. Regarding the topic of fees, he said he is hearing there is a struggle to be able to charge for some services, the Alaska Psychiatric Institute (API) being an example. He asked whether shifting

things around for availing fee structures would solve these challenges.

COMMISSIONER CRUM responded that regarding the API issue, those would be billable services at normal rates for services and would either go towards insurance or back towards Medicaid. Regarding fees, he said fee schedules are generally in regulation and there is a public notice process to change. Many of the fees to the department that it administers are through a regulatory process with substantive public input.

REPRESENTATIVE MCCARTY asked whether there is a situation that services are unable to be charged and this would bring some resolve to that.

COMMISSIONER CRUM answered yes, there are different services that could possibly get billed. Those must be adapted, he said, and go through the requisite process for the department to look at.

REPRESENTATIVE MCCARTY inquired whether the current structure is not allowing the ability to do that, but the EO would provide the structure that would allow doing that.

COMMISSIONER CRUM replied:

There is charge master that needed to be updated at API in order to put attention to third party billing, plus the opening of the Chilkat Unit will bring more Medicaid. But the structure will allow ... kind of the leadership and policy team focus in order to make sure that those changes can occur because it does require quite a bit of time and effort while simultaneously building up the foundation of API while getting it to a fully functioning unit ... of structure overall.

[4:07:00 PM](#)

CO-CHAIR SNYDER stated the committee is hearing that [EO 119] is going to create a significant change and that some of it is substantive and impermissible. It raises a lot of questions that still need to be answered, she said, especially how it relates to impact to the quality of care that Alaskans will receive in the essential services being provided. While this change may be warranted in the future, she continued, these things need be done through a public and transparent process

with the opportunity to ask questions. She noted committee members still have questions pertaining to the legal memo, and the committee still hasn't seen some documents that it requested last week, including information on the 139 positions that will be cut and the addition of new upper administrative positions. Co-Chair Snyder further noted the committee is looking for some details on the stakeholder engagement that it has heard is occurring, as well as a detailed plan on the bifurcating of Alaska's largest department. She pointed out that the deadline to act on EO 119 is in 15 days on 3/21/21 and added that the timeline is what the focus is on and how quickly this change would happen.

[CO-CHAIR SNYDER closed invited testimony.]

4:09:02 PM

CO-CHAIR SNYDER opened public testimony.

4:09:20 PM

JASON LESSARD stated he is testifying on behalf of himself but the roles he has had in his community are relevant to his perspective. He said he is the executive director of the National Alliance on Mental Illness (NAMI) Anchorage, serves on several boards and commissions relating to mental health, and most notably is a member of the governing body at API.

MR. LESSARD testified he is not necessarily opposed to the split proposed in the executive order but is vehemently opposed to the manner in which it has played out. He asked that the legislature slow the roll on this and require the due diligence this kind of change to this particular department warrants. He said that at some point DHSS touches just about every Alaskan's life, most notably the most vulnerable.

MR. LESSARD stated that this could be a good idea and, if so, it will continue to be a good idea in six months or a year. Perhaps it would be an even a better idea if tempered by actual stakeholder engagement, which this executive order has glaringly and offensively lacked as seen by looking at all the concerns raised by stakeholders in testimony. He stressed that this is happening too fast and without an understanding of the impacts. Given the pandemic, the EO being 106 pages, and the 60-day time bomb before the EO becomes law, he charged that it feels more akin to a hostage negotiation than to proactive and earnest engagement. He related that in January [2021] the API governing

body requested an update on the split from DHSS but that the 35,000-foot elevator pitch allowed to the governing body was hardly engagement. He asked why would the department not engage API or the Anchorage Department of Health and [Social] Services earlier in the executive order drop?

MR. LESSARD reminded the committee that this same administration rushed headlong down the road to privatize API without doing its homework. In reviewing that plan, the conclusions reached by the API governing body did not match the assumptions of the department. He said he is worried that things are proceeding in a similar vein regarding EO 119. Change needs to be anchored in proactive engagement and evidence, he emphasized, not just driven by ideology and assumption. He urged the department to show [the public] how this will help Alaskans with better outcomes and to take the time to prove that it's a good idea.

[4:12:47 PM](#)

CO-CHAIR SNYDER stated that public testimony on EO 119 would be continued on 3/9/21.

[EO 119 was held over.]

HB 76-EXTENDING COVID 19 DISASTER EMERGENCY

[4:13:02 PM](#)

CO-CHAIR SNYDER announced that the final order of business would be HOUSE BILL NO. 76, "An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 76, Version 32-GH1011\B, Dunmire, 3/3/21 ("Version B"), adopted as a work draft on 3/4/21.]

CO-CHAIR SNYDER opened invited testimony on HB 76, Version B.

[4:13:23 PM](#)

KEVIN BERRY, PhD, Professor, Department of Economics" University of Alaska Anchorage (UAA), provided his invited testimony via a PowerPoint presentation titled "Economic Impacts of COVID." He began with slide 2, "Takeaways," and noted these takeaways fit with what is becoming the consensus of the research literature around pandemic events and economic growth. He said the first takeaway is that COVID-19 is an unprecedented shock to the economy. Simultaneously there is a health shock as well as a negative impact on people's ability to live prosperous good lives through the negative impacts of the pandemic on the economy. The second takeaway, he stated, is that the economic shock cannot end until COVID-19 is dealt with. For as long as the infectious disease persists the shock to the economy will continue as well. Masking, social distancing, and vaccination drive down case numbers, helping the economy. He continued with the third takeaway which is that policies that speed the end of the pandemic and allow safe economic activity are pro-business, pro-economic growth, pro-Alaska, and pro-U.S. These policies include masks, social distancing, and even travel screening.

DR. BERRY spoke to slide 3, "Impact of Declaration Expiration." He said some of the main impacts of the expiration of the emergency declaration include the ability to require pretravel testing rather than suggesting it. A large body of literature indicates that requiring things leads to higher compliance than does suggesting that people do things. He specified that the expiration also potentially impacts the flexibility and the speed in response as the ability is lost to have things like emergency orders, other restrictions, and the ability to lift different regulations in response to needs of business. He credited Commissioner Crum and the administration for possibly solving the problem of the \$8 million in Supplemental Nutrition Assistance Program (SNAP) funding that is at risk. Mr. Berry stated that another impact of the expiration of the declaration is the uncertainty for the healthcare sector. He stressed that the most important impact of the expiration is the clear communication of the risk of COVID-19 and that most Alaskans are still susceptible to the disease, and therefore the possibility of a third wave that could lead to the need for more blanket restrictions that can slow the economy.

DR. BERRY noted that the graph on slide 4, "Total Employment in Total Nonfarm," depicts the total employment in nonfarm sectors in Alaska statewide [for the years 2018, 2019, and 2020]. He further noted that the four graphs on slide 5 depict the total employment in accommodation, food services and drinking, leisure

and hospitality, and retail trade in Anchorage [for 2018, 2019, and 2020]. He said slides 4 and 5 highlight that there is a large impact to employment in Alaska, particularly focused in things that are thought of as the tourism sector, but these also provide services to Alaskans. So, he continued, the pain of the recession is not equal across everyone. He further noted that in Alaska the job losses are also focused on those who are between the ages 35 and 45, and between 25 and 35, particularly amongst lower income workers, mostly in these sectors where people are working face-to-face high-risk jobs in restaurants, bars, and other locations.

4:17:20 PM

DR. BERRY displayed slide 6, "Total Employment in Health Care," and pointed out that the pain is felt everywhere. He related that the employment level in the health care sectors is down to that of 2018 following a steep drop early in the pandemic.

DR. BERRY moved to slide 7, "COVID-19 is the problem," and discussed the driver of this trouble. He drew attention to the two studies cited on the slide, one by Cronin and Evans, and the other by Goolsbee and Syverson. He explained that both studies basically make the point that when talking about the difference between economic shutdowns and voluntary avoidance behavior, voluntary stay at home behavior seems to explain a large majority of the economic consequences of shutdown orders. This means that even when the orders are lifted these sorts of slowdowns remain, they are driven by the risk of the disease, not by the orders themselves. He allowed it is a bit difficult to look at shelter in place orders given Alaska hasn't been under one for quite some time now and Anchorage, which has had three different shutdowns, is not currently under one. People are responding to the risk of the disease, and so long as the disease persists economic malaise and less economic activity will be seen. He advised that to heal the economy and be open for business, COVID-19 must be dealt with first and the administration needs the necessary tools to do so.

DR. BERRY turned to slide 8, "Reopening has limited effects," and related that the graphs are from an event study done by Chetty et al. He said this study compared reopening in New Mexico and Colorado, two relatively similar states. Colorado opened first. He reported that there was roughly no difference between the two states in consumer spending or employment, although there was a relatively large difference in the number of businesses open. This suggests that reopening early did not

help with economic activity, he continued, it simply meant that businesses were open but didn't have an increase in customers. So, he stated, some portion in the economic damage is due to people avoiding getting sick and trying to protect themselves.

DR. BERRY explained that slide 9, "People respond to COVID risk," summarizes the idea behind these previous studies. He said this is an idea that is older than himself and older than the studies he has pointed to. He related that the literature itself got kicked off in about 2010 by a study done by Eli Fenichel at the Yale School of Forestry that suggests that basically the course of diseases and pandemics are often influenced by self-protective behavior. He said a lot of the economic cost of infectious disease comes from people trying to avoid getting sick, whether to do the right thing for their community, to protect their at-risk family members, protect themselves, or because they've been told it's an at-risk situation and they are doing their best to respond. So, to mitigate the economic cost of the disease, which includes the harmed human health and the economic harm, Mr. Berry advised that the spread of the virus and voluntary avoidance behavior must both be reduced by making it safer. Lockdowns and other mandates need to be avoided and, for this, things like testing matter as does the ability to identify variants and stop new outbreaks by detecting people when they are coming into the state. He said giving people good information about the risk in their community is important. These resources for groups like the Department of Health and Social Services (DHSS) and others are vital. Mr. Berry pointed out that there is cost to people staying home. For instance, if it is decided to depend solely on self-protective behavior, it will come at the cost of lower economic activity, decreased academic achievement from having schools closed, and increased calls to domestic violence and sexual assault organizations. So, allowing the pandemic to continue has monetary cost to the economy as well as social ill costs, he added. Targeted policies and resources for the state government to reduce the risk of the disease will reduce the social and economic ills and open the economy safely.

DR. BERRY pointed to the graph on slide 10, "Passenger Volumes at Ted Stevens International Airport." He said he gathered this data from Kevin Sullivan who scraped TSA data through roughly June 2020, and he personally scraped the rest of the data from Freedom of Information Act (FOIA) documents in 2020 and 2021 to look at passenger volumes through this airport as sort of a measure of the number of visitors to Alaska. He said two things can be seen in the graph of the first four months of passenger

traffic over the last four years. The years 2018 and 2019 see a consistent pattern in the number of visitors to the state. The year 2020 sees a discreet drop-off around the timing of the first case deemed confirmed in Alaska, the announcement of the emergency order, the announcement of various shutdown orders, and other things happening. So, Mr. Berry stated, it's hard to blame the declining passenger traffic solely on the emergency order. He further stated that in 2021 passenger volumes remain lower. The data is unavailable post expiration of the emergency order, he continued, but anecdotally it's unlikely Alaska will see a dramatic increase in passenger load. What is being seen is that people are making a choice to avoid traveling and avoid coming to Alaska because of the risk of COVID-19. He pointed to a study by Yan et al., published in "Nature Scientific Reports," that found people are making this risk tradeoff. He said the best thing that can be done to heal the economy is to reduce the prevalence of the disease.

[4:24:18 PM](#)

REPRESENTATIVE MCCARTY inquired whether the graphs on slide 5 representing employment in accommodation, food services and drinking, leisure and hospitality, and retail trade are for Anchorage only or for the state.

DR. BERRY replied that those graphs are focused on Anchorage.

REPRESENTATIVE MCCARTY drew attention to slide 7, "COVID-19 is the problem." He asked if, while doing economic indicators, Dr. Berry is seeing a standard deviation of a delay in knowing the changes, and whether that delay is days or weeks. For example, he said, things have been opened in Anchorage and restaurants are filling up. He asked how long before that economic outcome will be seen.

DR. BERRY confirmed there is potentially a delay. He explained that potentially people are going to make calculations about the risk that they face. Regarding the travel restrictions that he previously mentioned, he said the requirement to be tested is a signal to people coming to Alaska that the state is still taking COVID-19 seriously. So, removing that potentially could make people believe it's riskier to come here, although it's a burden to travelers and could also disincentivize people. If talking about a delay in people gaining new information as they change their travel plans, he stated it is entirely possible it will take a week or two to see the effect of policy. The problem is that it's unlikely something new will be seen, he continued, so

people are still fairly educated on the risk of COVID-19 and that is not significantly changing.

4:27:23 PM

REPRESENTATIVE MCCARTY addressed slide 10, "Passenger Volumes at Ted Stevens International Airport." He inquired whether the lower passenger numbers for 2021 could be attributed to Alaska Airlines not allowing the planes to be filled and the Al-Can Highway is closed.

DR. BERRY allowed it's possible that other things are impacting this. He said this gets back to the main point that Alaska Airlines is imposing these restrictions in response to COVID-19 and COVID-19 risk and is doing this above and beyond what the state suggests as the company's response to try to make passengers feel safe. He stated that one of the best communication strategies he's seen so far is coming from the governor reminding people that Alaska is open but also safe to visit. By giving the governor additional resources to fight the pandemic and make it safer to visit Alaska by speeding vaccinations travel to Alaska can be encouraged by reducing those risks and making people feel safer on fuller flights.

4:28:31 PM

REPRESENTATIVE KURKA shared that he and his wife own small businesses in the Matanuska-Susitna (Mat-Su) Valley that serve other small businesses "in terms of ... the accounting world," so they are in many networks. He stated that much of Dr. Berry's presentation "doesn't pass the smell test." He allowed there is some truth to the point that COVID-19 has brought on fear and therefore less people going out and doing consumer activities. But, he said, it wasn't COVID-19 that shut down businesses it was the government. He asked whether Dr. Berry has done a comparison of economic prosperity between businesses in Anchorage where there has been continued shutdowns and those in the Mat-Su, particularly restaurants. He related that he is hearing about and seeing successful generationally owned restaurants in Anchorage being shut down permanently but hasn't seen that happening in the Mat-Su.

DR. BERRY responded that his presentation cites two nationwide studies that compare, sort of, county to county based on the timing of shutdown orders and other restrictions. He stated that the Cronin and Evans study and the Goolsbee and Syverson study, as well as others, demonstrate that the bulk of reduction

in traffic seems to be explained by the local case counts and risk of COVID-19, not necessarily the timing of shutdowns. Anecdotes are individual data points, he added, and it's often better to look at the total dataset as widely as possible. There is also the potential that many of the businesses in the Mat-Su are relatively close and a lot of people commute between the Mat-Su and Anchorage, so it can be hard to disentangle what is happening between those two locations. He said it would be a worthwhile study that he'd be happy to look at.

DR. BERRY continued his answer and explained that the nationwide studies cited in his presentation might, for instance, look at one county in Iowa and a county across the border in Illinois where one faces a shutdown order, and the other doesn't. He doesn't mean this to also sound like shutdown orders have no impact at all, he said, it's just that they are also simultaneously often occurring around the same time that COVID cases are increasing. For instance, he continued, the Anchorage shutdowns occurred in August when the summer wave was happening and again in December when the second wave was happening, so they are also timed to the highest risk periods to COVID-19. He allowed Representative Kurka raises a valuable point that there are some folks who are making risk calculations where they are willing to participate in the economy regardless of local case counts and what is going on but advised that what's overall happening in the economy depends on everybody's choices. There is some subset of the population that is very responsive to risk, so mandates that are not lockdowns - like mask mandates and testing - help encourage those people to feel safe and return to their typical economic behavior. Dr. Berry agreed that some businesses in the Mat-Su are potentially doing well and said that could also be because some of the people in Anchorage were making the risk calculation that they are unafraid of COVID, or have decided that their family is unlikely to be impacted, or they don't know anybody who is high risk, or they have miscalculated their own risk, and may be driving to the Mat-Su and increasing business there as well. So, it's unclear if that is a strategy that is possible for the entire state at once.

[4:33:05 PM](#)

NILS ANDREASSEN, Executive Director, Alaska Municipal League (AML), noted AML's membership is comprised of Alaska's cities and boroughs. He pointed out that in considering the extension of the state's emergency declaration, it is three weeks past the declaration's expiration. That's important, he said, because

it's reflective of the overall process that local governments have experienced. He continued:

Over the course of the last year the experience that local governments have had can best be described as frustrating. For every state action or inaction 165 local councils, assemblies, have wrestled with what to do in response or in place of. That's required thousands of local elected officials and more than 100 administrators to become public health experts, incident commanders, and targets. Together they have dealt with hundreds of state and federal actions that provide guidance without clarity, direction without data, and an emergency declaration that hasn't been firmly in place since November. That means since October and every 30 days thereafter, our members in AML have reached out to the governor and to legislators to renew the declaration to ensure that Alaska's communities have the resources they need to respond to this pandemic. Alaska's local governments have managed through this process and continue to do so. This means that they have diverted a large amount of their attention to disaster response and management, to responding to the needs of their residents and businesses, and to fill the gap where the state was enacting at the local level.

The governor has been clear throughout, placing emphasis on local control of COVID mitigation. This has come up most prominently with respect to business closures or limitations or requirements for face coverings. So, let's be clear, those had nothing to do with the state's emergency declaration and everything to do with the transfer of responsibility from the state to the local level to make decisions that helped contribute to flattening the curve and protecting our healthcare capacity. In a lot of ways local leaders have borne the brunt of the public backlash of these mitigation measures, but it's also true that the public may conflate the disaster declaration with these actions.

The loss of the declaration means that local governments have been scrambling to fill holes created in its absence. Many declarations were tied to the state's and have either been renewed or now expired. Many have had to reconsider their own travel,

quarantine, and testing restrictions when the state's [restrictions] went from mandatory to optional. Many are in the midst of operating testing or vaccination clinics with questions about available resources, training, and authorities. Some are now racing to address spikes in cases. Many are looking at an uncertain future, new strains, variants, supporting of vulnerable residents, preparing for an economic rebound, and preparing for the lack thereof. Ultimately, it's this uncertainty that ends up most challenging.

A state government that is responsive and capable at the very least assists local governments in stabilizing their current operating environment. In fact, the emergency declaration just makes government work better when it's needed most. That means that while we, state and local officials charged with public welfare, continue to try and respond to the public health needs of our communities and to take necessary actions that support economic recovery, the declaration remains just a tool at our disposal. The Alaska Disaster Act, which within HB 76 I believe is just Sections 2 and 3, allows the state to allocate, distribute, and manage scarce resources, including vaccine and testing supplies, much of this in cooperation with and at the request of local governments; allows it to suspend regulations that may prevent or impede the provision of health services or COVID response, including many that businesses and organizations have depended on to ensure continued operations; allows DMVA [Department of Military and Veterans Affairs] and DHSS [Department of Health and Social Services] to work together within unified command structure, which has met weekly or bi-weekly with our members; and allows the state to coordinate with FEMA [Federal Emergency Management Agency] on non-congregate shelters, which is also intersected with municipal assets.

There is a reason that the Alaska Disaster Act is in place - to allow the state to act quickly and efficiently in response to a disaster. It's that easy. Any delay to this simply erodes the partnership that's in place between the state and local governments, between the state and its healthcare providers, and ultimately between the state and the

business community. If we want to be open for business, local governments need a state whose emergency powers are fully employed on behalf of exactly that. Anything less places extreme pressure on local officials, slows Alaska's economic rebound, and places Alaskans' lives at risk.

Chair and committee members, what's perhaps most disheartening is that I know my testimony today may not result in a desired or quick outcome. Not because of your action, but it's part of the situation where we're behind in responding to this continuing disaster and I've joined colleagues from all sectors in advocating for the Disaster Declaration's extension. At this point it isn't just COVID fatigue that I struggle with, but it's having this conversation about whether there is to be, or not, a disaster declaration placed when we continue to need exactly that.

[4:39:01 PM](#)

KATI CAPOZZI, President & CEO, Alaska Chamber of Commerce, noted the chamber was founded in 1953 and its mission is to advocate for a healthy business environment in Alaska. She said the chamber has over 700 members and represents businesses of all sizes and histories from across the state. She expressed the chamber's support for passage of HB 76.

MS. CAPOZZI said Alaska's businesses have suffered immensely over the course of the COVID-19 pandemic, and one year into this public health and economic crisis many are struggling to keep their doors open. The business community has endured and is beginning to see light at the end of the tunnel and is plotting a course for recovery, she continued. Economic recovery, however, hinges on (indisc.) COVID-19. The true economic impact of the COVID-19 pandemic to Alaska is yet to be determined, especially considering recent policy actions (indisc.) control that effectively shut down the largest portion of Alaska's tourism season for at least another season.

MS. CAPOZZI related that there is concrete data on job losses. She specified that [according to the] Department of Labor there were 44,000 fewer jobs during peak employment months in 2020 than there were in 2019. Virtually every industry in Alaska was negatively impacted, she said, some far more significantly than others. The oil and gas and hospitality industries were hardest

hit, each ending 2020 with nearly 30 percent fewer employees in their workforce than the year prior.

MS. CAPOZZI stated it's never been clearer that healthy people are the foundation of a healthy economy. Addressing public health concerns contributes to Alaska's ability to recover, she pointed out. While Alaska has had lower case counts and hospitalizations and leads the nation in vaccinations per capita, she stressed it's important to keep the tools in place to allow for this positive trend. From the business community's perspective, she continued, providing the state with the appropriate authorities and tools to continue COVID-19 response and recovery does not represent more restrictions and burdensome mandates but quite the opposite.

MS. CAPOZZI noted that before the Emergency Declaration expired in February the chamber had expressed concern that any lapse in the state's ability to receive and expend healthcare resources would immediately impede the progress made and add unacceptable uncertainty to the state's collective recovery, from both health and economic perspectives. She advised that without some of the regulatory flexibility provisions provided within HB 76, operations throughout the state and across many industries, particularly the healthcare industry, are forced to do their best to comply with confusing and unclear guidance. This unnecessarily adds increased uncertainty to the business community, she added.

MS. CAPOZZI concluded by emphasizing the need for action and reiterating that the chamber supports passage of HB 76 or any legislation that provides the state authority to effectively address ongoing COVID-19 response and recovery efforts. She stressed that Alaska's economic health is depending on it.

[4:42:13 PM](#)

REPRESENTATIVE MCCARTY stated he would like to see data showing the differentiation between areas and businesses. He said COVID is a real thing. He related that he has heard some businesses have adapted and done well, some have adapted and stayed in business, and some were not allowed to adapt and had to close their doors. But, he added, he is also hearing the "Stockholm Syndrome" where some businesses want to stay the way it's been with COVID and not go back to the way it was before COVID. He asked whether Ms. Capozzi has also been hearing that.

MS. CAPOZZI requested clarification regarding businesses wanting to stay the way it is with COVID.

REPRESENTATIVE MCCARTY asked whether Ms. Capozzi is familiar with the Stockholm Syndrome.

MS. CAPOZZI responded yes.

REPRESENTATIVE MCCARTY related that some restaurants were given the privilege of drive-through pickup of alcohol, but now will have to go back to the old way of doing things. He said restaurants have done great in adapting and want to be able to continue those adaptations. He inquired whether Ms. Capozzi has heard of other examples about businesses wanting to stay under the COVID structures that they've adapted.

MS. CAPOZZI answered that there have been some regulatory rollbacks or pauses which allowed businesses to innovate and adapt, and thrive in some cases, and the alcohol pickup is certainly one of them. She pointed out that another small, but important, piece that the Senate is currently considering is the ability for nonprofits to hold their board meetings virtually, which is important for all nonprofits and something the chamber hopes to see permanently changed moving forward. She said she has heard anecdotally of opportunities that have become available throughout COVID and mostly have to do with businesses that innovated and pivoted virtually overnight to be able to thrive in this environment.

REPRESENTATIVE MCCARTY requested Ms. Capozzi to provide the committee with information regarding the aforementioned.

MS. CAPOZZI agreed to do so.

[4:45:59 PM](#)

MICHELLE DEWITT, Executive Director, Bethel Community Services Foundation (BCSF), noted BCSF is the entity designated by statute that sponsors the Kuskokwim Ice Classic, a small and highly localized ice classic, as opposed to the Nenana Ice Classic with which people tend to be familiar. She stated the foundation operates a very similar fundraising contest, visible primarily in the Yukon-Kuskokwim (YK) Delta Region, where customers guess the month, day, and time of breakup. The foundation dedicates the net revenue to nonprofit organizations that provide services in the community, most of which are youth groups.

MS. DEWITT recounted that in pre-COVID times youth groups would sell tickets in stores to earn money for their club or group. But last year at the time ticket sales were about to begin BCSF began to grasp the devastation of the pandemic. Realizing tickets could not be safely sold in person, she said the foundation pivoted to a phone sales strategy, which resulted in a logistics nightmare for this fundraiser. She explained that Ice Classic staff and the volunteer groups tried to staff the phones, but the phones were easily and quickly overwhelmed at peak times. The process relied on a very slow routine of taking down the customer's name, contact information, their guess, and details about which nonprofit group they wanted to support with their purchase. The guess, she specified, must be 100 percent accurate, and must be verified with the caller. With volunteers receiving the information, the accurate recording of the guess was out of the customer's hands and into a volunteer's hands. But, she noted, this transaction didn't stop there.

MS. DEWITT explained that volunteers work remotely from their homes for COVID-19 safety, with phones forwarded to different people every few hours. Folks working the phones wrote guesses as quickly as they could on the forms, she related, and then the forms then had to be transferred to actual Ice Classic guesses. All the guesses in the forms now located at homes of volunteers throughout town had to be retrieved and physically sorted in chronological order. After all this, as a method of validating accuracy again, guesses are entered into a spreadsheet, she further explained. So again, a volunteer had to receive a call and complete a form, transfer the data to a ticket, sort the ticket into the entire pool of tickets in chronological order, and then enter guesses into a database. This was four layers of work 6,000 times over. A reduction in sales of more than 20 percent was seen, she reported. Normally, between 7,500 and 10,000 guesses are received, but with the phone-only approach about 6,000 were logged.

MS. DEWITT stated that now, in 2021, the foundation is about to go into a similar position. A vaccine is here, many COVID-19 safety precautions and adaptations have been embraced, and the foundation is moving into an era of decreasing members, she said. But it's not yet safe or appropriate to return to in-person sales for this sort of fundraiser. So, BCSF is staring down this potentially cumbersome process and the language in the bill offers substantial relief. She asked the committee to support this language, which will allow this fundraiser and

undoubtedly many others around the state to continue in a safe way online in the pandemic.

MS. DEWITT emphasized that the true benefit of this [proposed] adaptation will be reaped by the groups the foundation serves, which most recently included a youth dance company, the group that offers swim passes and free swim lessons at the fitness center, the pet rescue nonprofit, the student council, and the local youth group Teens Acting Against Violence. She said that groups like these have had nearly all their venues for raising funds disappear in this year of COVID. An online adaptation will provide them with the ability to raise funds for their programs by using technology, she stated in conclusion.

[4:50:07 PM](#)

CO-CHAIR ZULKOSKY requested Ms. Dewitt to talk about why having an online adaptation is worthwhile moving into 2021, and the importance of being able to do this online versus phones.

MS. DEWITT replied that the online adaptation allows for increased efficiencies with the fundraiser. By phone, she said, it is a four-step process repeated over and over literally thousands of times. Online keeps everyone safe, reduces the significant stress, and keeps the accuracy in the hands of the customer who can submit his or her own guess and not have to rely on somebody at the receiving end to write down the guess accurately. It is a huge benefit for the customer as well as for the volunteers on the receiving end in terms of efficiency.

[4:51:50 PM](#)

THOMAS QUIMBY, MD, Vice President, Alaska Chapter of the American College of Emergency Physicians, noted he is a full-time practicing emergency physician. He said that to date Alaska has weathered the COVID-19 pandemic relatively well and there are indicators that the pandemic is winding down. The number of vaccines administered thus far in Alaska is encouraging and is seen as a critical step towards achieving a degree of herd immunity. The chapter is optimistic about the future, he added, and is hoping for a return to a semblance of normality soon.

DR. QUIMBY cautioned that, despite the many positive indicators, there remains considerable vulnerability to additional surges. He noted that currently there are worrisome case counts in Petersburg and the Mat-Su Valley. Repeatedly, a resurgence in

cases has been seen throughout the country and globe when mitigation measures are relaxed. Even though vaccine rates increase daily and there is thought to be a degree of naturally acquired immunity, he said the data does not suggest that the population has yet reached a degree of immunity that would guarantee invulnerability to future surges. He related that his hospital continues to see COVID related complaints as an average of 30-40 percent of its daily emergency department volume. As well, he advised, the threat of new, more infectious variants remains to be fully understood.

DR. QUIMBY stated that there are significant practical concerns with the lapse of the emergency disaster declaration. Broadly, he explained, the declaration provides important flexibility in resources for rapidly responding to the dynamics of the pandemic. The situation can change rapidly, he pointed out. For example, within a recent two-day period his hospital went from zero COVID patients to thirteen, a significant and concerning increase for a hospital with just sixteen intensive care unit (ICU) beds. Specifically, he further explained, there is concern about loss of access to a variety of federal (indisc.) waivers, with many potential implications. This may affect alternative care sites and there is much uncertainty now regarding the legality of existing sites and whether they can continue to operate. The Lake Otis Testing Center has shut down, he continued. It is known that testing is a critical component of managing the pandemic to take intermediate steps before healthcare systems become completely overwhelmed necessitating shutdowns. He said the Alaska Chapter is concerned about other existing sites and whether they can continue to operate. With the lapse of the declaration, patients have lost access to tele-health providers due to concerns about liability.

DR. QUIMBY stated that his organization believes a bill to permanently allow non-Alaska state license tele-health providers is the wrong answer. He specified that an emergency order extending access temporarily allows Alaska to craft a more nuanced permanent bill that can serve Alaskans in the future. He further noted that travel related testing has been severely curtailed. He pointed out that this has been an important tool for many rural communities with limited healthcare services to prevent outbreaks. He advised that mandatory airport testing will help protect Alaskans, should be in place until vaccination is more widespread, and allows for detection control of COVID-19 variant strains.

DR. QUIMBY further related that some [case management] facility regulations have also been waived in the meantime that allow placement for personal protective equipment (PPE) supplies, temporary walls and barriers, and other modifications to facilities necessitated by COVID related protocols. He stressed that the Alaska Chapter has concerns for potential misuse of accessing supplies from the state and national stockpiles, which include PPE such as masks, gloves, gowns, and powered air purifying respirators (PAPRs); and essential medical equipment such as ventilators, high-flow nasal canula devices, and testing supplies. He shared that at one point during the November [2020] surge his hospital was down to only one or two high-flow nasal canula devices available, none were available on the commercial market. His hospital was able to quickly get 15 from the state but it's uncertain whether his hospital would be able to do that in the future. He pointed out that during much of the pandemic these items have been unreliably available on the private market and the ability to get them quickly from the state has made all the difference during surges.

DR. QUIMBY advised that there is also increased complexity and difficulty with a variety of procurement issues, such as lengthy standardized contract processes that prohibit rapid hiring for vaccine distribution, testing, and delivery of health care as needed. He stated there is concern for communications between agencies and facilities given the loss of the Incident Command System (ICS). Also, he said, potential messaging to the public of the need for personal caution and responsibility in protecting the community has been reduced. This would be a great mistake, Dr. Quimby counseled, especially with the rapidly improving situation. To date, countless examples of large surges have been seen when communities, states, and countries have relaxed mitigation measures, such as physical distancing, indoor gathering, and masking, prior to widespread vaccination. These surges invariably tax the healthcare system's capacity which necessitates shutdowns that have many negative consequences such as harming the economy, restricting liberties, and affecting mental health.

DR. QUIMBY allowed there are many promising indicators that the end of the pandemic draws near but cautioned that "we are not there yet." While dropping case counts is very encouraging and the desire to send the public positive messaging is appreciated, he continued, failure to extend the emergency declaration has many negative consequences for those working in healthcare and still very much involved in managing the pandemic. He related that, most of all, repeal of the declaration has created

considerable confusion and created uncertainty in addition to loss of access to important tools for combatting the pandemic. He pointed out that, overall, there is no apparent financial or other significant negative consequences to continuing the declaration for the immediate future. He further noted that alternative solutions through patchwork legislation thus far did not thoroughly address the issues created by repeal of the declaration and had many potential unintended consequences. He said the Alaska Chapter of the American College of Emergency Physicians therefore respectfully requests that the committee renew the disaster declaration.

[4:58:47 PM](#)

REPRESENTATIVE MCCARTY, regarding the recent COVID surge in the Mat-Su Valley mentioned by Dr. Quimby, inquired about the severity of these COVID cases compared to the past.

DR. QUIMBY replied that current cases are not looking like the November surge. He said cases rapidly climbed several weeks ago and have started to drop off some. Part of his concern is that a significant outbreak among younger and healthier people is being seen. There was a school outbreak and many of those people are showing up in the emergency department, but they aren't requiring hospitalization consistent with what has been seen other places. The concern, he stated, is that if this spills over into the more vulnerable population another large surge could be seen. He said it is manageable at this time but could change very quickly as mentioned in his testimony.

[5:00:03 PM](#)

CO-CHAIR SNYDER opened public testimony on Version B, the proposed CS for HB 76, then closed it after ascertaining no one from the public wished to testify. She said public testimony would be reopened at the bill's next hearing on 3/9/21.

CO-CHAIR SNYDER announced that HB 76 was held over.

[5:01:47 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Committee meeting was adjourned at 5:02 p.m.